

STATE OF TEXAS

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CITY OF SAN ANTONIO

TAX ABATEMENT AGREEMENT FOR  
REAL AND PERSONAL PROPERTY  
IMPROVEMENTS

COUNTY OF BEXAR

1. PARTIES

THIS TAX ABATEMENT AGREEMENT (the "Agreement") is entered into on this 8 day of June 2010, by and between KOHL'S DEPARTMENT STORES, INC. (hereinafter referred to as "KOHL'S"), holding a leasehold interest in the real property described herein and as owner of personal property located, or to be located, on said real property, and the City of San Antonio, a municipal corporation, (hereinafter referred to as the "CITY"), acting by and through its City Manager under the authority of its City Council.

2. AUTHORIZATION AND FINDINGS

A. This Agreement is entered into pursuant to the following authorities:

1. The Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312, as amended;
2. CITY COUNCIL RESOLUTION No. 89-07-12, dated the 15th day of February 1989, and most recently revised by Ordinance No. 2008-12-11-1169 on December 11, 2008, together which established the City of San Antonio Guidelines and Criteria for Tax Phase-In and Reinvestment Zones, (hereinafter referred to as the "Guidelines and Criteria");
3. CITY COUNCIL ORDINANCE NO. 2010-06-~~0000~~10-0499, dated June 10, 2010, which designated the KOHL'S Reinvestment Zone (the "Zone"); and
4. CITY COUNCIL ORDINANCE NO. 2010-06-~~0000~~10-0500, dated June 10, 2010, which specifically approves this Agreement and authorizes execution hereof.

B. The City Council, by its approval of this Agreement, hereby finds that the terms of this Agreement are within the Guidelines and Criteria and the approval of this Agreement will not have any substantial long-term adverse effect on the provision of city services or the City's tax base. The City Council also finds that the planned use of the Property (defined below) inside the Zone by KOHL'S does not constitute a hazard to public safety, health or morals.

C. The City Council, by its approval of this Agreement, hereby finds that the terms of this Agreement are or would be substantially similar to any tax abatement agreement offered to KOHL'S by Bexar County.

### 3. **PROPERTY**

A. KOHL'S owns a leasehold interest in real property located at 10000 Rogers Run, San Antonio, TX 78251 (the "Property"), legally described in Exhibit A, attached hereto and incorporated herein. The Property is within the KOHL'S Reinvestment Zone, designated by City Ordinance No. 2010-06-~~10~~0119 for the purposes of the Texas Property Redevelopment and Tax Abatement Act of 1987, V.A.T.S. Tax Code, Chapter 312.

B. KOHL'S, shall conduct business operations on the Property that principally consist of shared services for the credit card operation and e-commerce division of its corporation ("Business Activities"). KOHL'S will conduct, on the Property, its Business Activities or the normal business activities of a Related Organization, as defined in Article 5, Paragraph I, for the term of this Agreement.

C. KOHL'S is investing approximately FOUR MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$4,800,000.00) in real property improvements (the Phase I "Real Property Improvements") and approximately THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000.00) in new tangible personal property (the "Personal Property Improvements") to be located on the Property and used for KOHL'S's Business Activities. The Personal Property Improvements shall not be placed on the Property sooner than the effective date of this Agreement.

D. Additionally, KOHL'S currently intends to expand the facility located on the Property by constructing a second building (the "Phase II Real Property Improvements") that will house employees used to conduct Business Activities at the Facility. The construction of the second building is estimated to be between SEVEN MILLION DOLLARS AND TEN MILLION DOLLARS (\$7,000,000.00 - \$10,000,000.00).

E. KOHL'S shall establish a separate tax account for the Real and Personal Property Improvements with the Bexar Appraisal District and provide these tax account numbers to the CITY.

F. Upon KOHL'S completion of the Phase II Real Property Improvements, it shall establish a third separate tax account for the Phase II Real Property Improvements with the Bexar Appraisal District and provide this tax account number to the CITY.

### 4. **KOHL'S'S REPRESENTATIONS**

A. KOHL'S represents that it has no knowledge that any interest in the Property is presently owned, held or leased by a member of the San Antonio City Council, Zoning Commission, Planning Commission, the City's International and Economic Development Department, or any other City officer or employee. KOHL'S further represents that it

shall not knowingly sell, lease or otherwise convey such an interest to a member of the San Antonio City Council, the Zoning Commission, the Planning Commission, the City's International and Economic Development Department or any other City officer or employee, as long as this Agreement remains in effect.

B. KOHL'S represents that at the time of the execution of this Agreement there is no litigation pending against KOHL'S for any violations under the Occupational Safety and Health Act ("OSHA") with respect to the Property.

## **5. OBLIGATIONS OF KOHL'S**

A. In addition to the obligations and duties imposed on KOHL'S by other incentive agreements it has entered into with the State of Texas, Bexar County or the City of San Antonio, KOHL'S shall:

(i) own, hold an interest in or otherwise control the Property and Personal Property Improvements that are the subject of this Agreement; and

(ii) invest, or cause to be invested, approximately FOUR MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$4,800,000.00) in real property improvements to the Property by August 31, 2010.

(iii) invest, or cause to be invested, approximately THREE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$3,500,000.00) in the Personal Property Improvements for the Property by September 30, 2010; and

(iv) shall hire a minimum of ONE THOUSAND AND SIXTY-FIVE (1,065) new full-time employees in San Antonio that will work at the facility located on the Property, substantially in accordance with the following schedule:

1. In Calendar Year 2010, KOHL'S shall create TWO HUNDRED AND SEVENTY-FIVE (275) jobs.
2. In Calendar Year 2011, KOHL'S shall create an additional FOUR HUNDRED (400) jobs for a cumulative total of SIX HUNDRED AND SEVENTY-FIVE (675) jobs.
3. In Calendar Year 2012, KOHL'S shall create an additional THREE HUNDRED AND TWENTY-FIVE (325) jobs for a cumulative total of ONE THOUSAND (1,000) jobs.
4. In Calendar Year 2013, KOHL'S shall create an additional SIXTY-FIVE (65) jobs for a cumulative total of ONE THOUSAND AND SIXTY-FIVE (1,065) jobs.

(v) shall occupy and use the Property for its Business Activities; and

(vi) shall comply with all other applicable terms of this Agreement.

B. KOHL'S covenants and agrees that it shall pay at least one hundred percent (100%) of its new and existing employees the City's effective prevailing "living" wage as determined by the City Council in its Tax Abatement Guidelines, which is TEN DOLLARS AND 60 CENTS (\$10.60) per hour. After one year of completing the Real Property Improvements, seventy percent (70%) of new and existing employees must earn at least TWELVE DOLLARS AND SEVENTY-SIX CENTS (\$12.76) per hour.

C. A Full-Time Job, for the purposes of this Agreement, shall be equivalent to two thousand fifteen (2,015) straight-time paid hours in a fiscal year. Those employees who have not been employed for a full year shall be considered to be a "Full-Time Job" under this Agreement if their straight-time paid hours would be at least equivalent to two thousand fifteen (2,015) on an annualized basis.

D. KOHL'S covenants and agrees that it shall offer all of its non-temporary full-time employees employed on the Property substantially similar employee benefits as those employee benefits offered to similarly situated employees of KOHL'S in the State of Texas.

E. KOHL'S covenants and agrees that it shall substantially comply with all applicable federal and state laws governing the employment relationship between employers and employees.

F. KOHL'S covenants and agrees that it shall conduct its Business Activities (as defined in Article 3, Paragraph A) on the Property substantially in accordance with all applicable federal, state and local laws.

G. KOHL'S covenants and agrees that it shall make all real property improvements to the Property in accordance with all applicable federal, state and local laws including, but not limited to, Texas Commission on Environmental Quality regulations, Bexar County and City of San Antonio laws, Building Codes and ordinances, Historic Preservation and Urban Design ordinances, flood, subdivision, building, electrical, plumbing, fire and life safety codes and regulations, current and as amended.

I. Except as provided herein, KOHL'S covenants and agrees that it shall use the Property only to conduct its Business Activities. Without additional consent or approval by the City Council, a parent, subsidiary or affiliate organization of KOHL'S or new entity created as a result of a merger, acquisition, or other corporate restructure or reorganization of KOHL'S, or any component thereof (hereinafter "Related Organization"), may occupy and use the Property for such Related Organization's normal business activities, so long as such business activities are those of a credit card operation and e-commerce division of a major department store, similar or comparable to the Business Activities of KOHL'S on the Property. To be eligible for tax abatements as provided in this Agreement, such Related Organization must agree in writing to fully

comply with all applicable terms of this Agreement. Except as authorized above, KOHL'S covenants and agrees not to change KOHL'S's principal use of the Property without prior approval by the City Council, which approval shall not be unreasonably withheld or delayed, as evidenced in a duly approved ordinance.

J. To the extent that such repair and maintenance obligations have not been assumed by the landlord pursuant to a duly executed lease for the Property, KOHL'S covenants and agrees that it shall maintain the Property and any constructed improvements in good repair and condition during the Term of this Agreement, normal wear and tear and damage by fire or other casualty not caused as a result of the gross negligence, intentional act or misconduct of KOHL'S excepted. Compliance with the maintenance obligations imposed herein shall be presumed if KOHL'S follows its normal and customary maintenance procedures and schedules for its other leased facilities or if substantially similar obligations are imposed upon the landlord pursuant to a duly executed lease for the Property.

K. Upon five (5) business days' prior notice to KOHL'S by CITY, KOHL'S covenants and agrees that they shall allow designated representatives of the CITY access to the Property during normal business hours for inspection to determine if the terms and conditions of this Agreement are being met. Such inspection shall occur no more often than twice within a 12 month period unless the City obtains evidence that KOHL'S is not in compliance with the terms and conditions of the Agreement. This inspection is independent of CITY'S police powers to inspect for purposes of assuring compliance with applicable City Codes and Ordinances. The CITY's access to KOHL'S's books and records will be strictly limited to information needed to verify the number of full-time employees at the Facility, and the wages paid to these employees. Any information that is not required by law to be made public shall be kept confidential by CITY. KOHL'S shall not be obligated to disclose any confidential information that is otherwise prohibited by any applicable law to disclose. Should any good faith dispute or question arise as to the validity of the data provided, the CITY reserves the right to require KOHL'S to obtain an independent firm to verify the information. This certified statement by an independent firm shall be provided at the sole cost of KOHL'S and, once submitted, will not be subject to further dispute by the CITY. CITY representatives shall be accompanied by KOHL'S representatives at all times during any such inspections and such inspections shall be conducted in such a manner as to (a) not unreasonably interfere with the operation of the Property or KOHL'S's Business Activities; and (b) comply with KOHL'S's reasonable security requirements.

L. During the term of this Agreement, KOHL'S covenants and agrees to furnish each year, as applicable, the Chief Appraiser of Bexar Appraisal District with information outlined in Chapter 22, V.A.T.S. Tax Code, as amended, as may be necessary for the tax abatement and for appraisal purposes.

M. KOHL'S covenants and agrees that it shall provide the CITY's Director of International and Economic Development with a semi-annual certification from an officer of KOHL'S attesting to the number of full-time new jobs created and retained jobs by

KOHL'S, as well as wages paid by KOHL'S to employees at the Property. KOHL'S shall also submit this information to the CITY upon request, as reasonably deemed necessary by the CITY, during the Term of this Agreement. The information provided shall be on the forms set forth in, or substantially similar to the forms set forth in, Exhibit "C" (attached hereto and incorporated herein), as amended.

N. KOHL'S covenants and agrees to make a good faith effort to hire local employees to fulfill its requirements under Article 5, Paragraph A. "Local" is defined, for the purposes of this Paragraph, as an employee whose principal residence is located within the city limits of the City of San Antonio or within the county limits of Bexar County. Additionally, and in accordance with the requirements of the Guidelines and Criteria, KOHL'S agrees to hire not less than TWENTY-FIVE PERCENT (25%) OF ALL THE NEW JOBS WITH employees who reside in Bexar County.

O. KOHL'S covenants and agrees to notify CITY in writing at least thirty (30) days prior to any sale, transfer or sub-lease of KOHL'S interest in the Property during the Term. CITY shall not unreasonably withhold approval of any requests for Assignment of this Agreement by KOHL'S under Article 11, and any new purchaser or transferee requesting Assignment shall be bound by same. Failure to provide the required notification under this Article 5, Paragraph O may render KOHL'S subject to the termination and recapture provisions under Article 7. This provision does not grant the CITY the right to pre-approve, disapprove or prohibit any sale, transfer or sub-lease of the Property during the Term; rather, it creates a notification requirement and further addresses requests for Assignment of the Agreement, and consequences for failing to meet the notification requirement.

P. KOHL'S covenants and agrees to notify CITY in writing at least 30 days prior to Relocating its Business Activities outside of the City of San Antonio or to an area within the City of San Antonio that has not been subsequently designated a tax increment reinvestment zone, or Ceasing its Business Activities (as defined in Article 7, Paragraphs B and C). Failure to provide the required notification under this Article 5, Paragraph P may render KOHL'S subject to the termination and recapture provisions under Article 7. without benefit of the Cure Period (as defined in Article 7, Paragraph E).

Q. If, during this Agreement, KOHL'S fails to create and retain at least the minimum number of full-time jobs required under Article 5, Paragraph A of this Agreement, or KOHL'S fails to pay at least the minimum wages required under Article 5, Paragraph B of this Agreement for a period of four (4) or more consecutive months, without the agreement of the CITY, then the abatement reduction, termination, and recapture provisions of Article 7 of this Agreement shall apply against KOHL'S.

R. If, during this Agreement, KOHL'S allows its ad valorem taxes due on the land (if KOHL'S is required, as a tenant, to pay them), its real and personal property or inventory and supplies to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest, or is in default with any loan which has been made by the San Antonio Development Agency, South Texas Business Fund, City of San

Antonio Industrial Development Authority or any other CITY-sponsored loan/grant/bond program, then the termination and recapture provisions of Article 7 of this Agreement shall apply.

## 6. TAX ABATEMENT

A. The tax abatement period (the "Term") for the Phase I Real and Personal Property Improvements shall be six (6) years commencing on January 1, 2011 and terminating on January 1, 2016. The base year for calculating the value of real property existing and located upon the Property prior to the effective date of this Agreement shall be January 1, 2010 (the "Base Year"). The "Base Year Value" of the personal property not covered by this Agreement shall be its assessed value (determined by the Bexar Appraisal District), as of the Base Year. This Agreement only provides for the abatement of taxes on real property improvements made subsequent to the Base Year and tangible personal property brought onto the site after the execution of this Agreement.

B. At the commencement of the Term, KOHL'S shall own, have an interest in or otherwise control its use of the Property, and shall be conducting its Business Activities on a daily basis.

C. Provided that KOHL'S has invested in the Real and Personal Property Improvements as described in Article 3, Paragraph A of this Agreement by the date provided in Article 5, subparagraph A.(2), KOHL'S has hired and retained the number of employees specified in Article 5, Paragraph A of this Agreement, KOHL'S pays at least the minimum wages required under Article 5, Paragraph B of this Agreement, KOHL'S uses the Property for its Business Activities, and KOHL'S is otherwise in compliance with the conditions of this Agreement, then FIFTY-PERCENT (50%) of the ad valorem taxes for the Real and Personal Property Improvements, including inventory and supplies, above the Base Year Value, shall be abated for the Term of this Agreement. There shall be no abatement of taxes for the underlying land value or any real property improvements existing at the date of this Agreement.

D. KOHL'S acknowledges and agrees that the Base Year Value of the Property and the tax levy based on said Base Year Value of the Property in the Zone shall not decrease, but taxes may increase and that the amount of property taxes paid by KOHL'S to the CITY attributable to the Property during the Term shall not be less than the amount of taxes attributable to the Property paid to the CITY for the Base Year tax year, if any, except in the event of casualty or condemnation of the Property in the Zone.

E. IfIn addition, if KOHL'S undertakes and completes Phase II Real Property Improvements before January 1, 2014,~~2015~~, then the terms and conditions of this Agreement shall also apply to the Phase II Real Property Improvements—only— for an additional six (6) year period commencing on January 1 of the year following substantial completion of the improvements, but not later than January 1, 2014~~2015~~, and terminating six years following the commencement date. If the January 1 following substantial completion of the Phase II Real Property Improvements is after January 1, 2015,

then that six (6) year period shall be reduced, pro-rata, for each year after January 1, 2015.

F. KOHL'S shall have the right to protest appraisals of the Property, real or personal, or any portion thereof, over and above the Base Year Value as applicable.

## **7. DEFAULT/TERMINATION/RECAPTURE**

A. For purposes of this section, "Relocation" or "Relocate" shall mean KOHL'S or a Related Organization which has taken the place of KOHL'S, transferring Business Activities to a location outside of the Zone.

B. Should KOHL'S occupy and use the Property for its Business Activities and subsequently Relocate (as defined in this Article 7, Paragraph A) during the Term, unless such Relocation is caused by a Force Majeure, as defined in Article 8, then CITY shall have the right to terminate this Agreement. Said termination shall be effective for the calendar year during which the Relocation occurred. Unless KOHL'S presents credible evidence to clearly indicate a date of Relocation, CITY's determination shall be final and conclusive.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY, and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies KOHL'S in writing of termination.

C. If KOHL'S occupies and uses the Property for its Business Activities and subsequently ceases conducting Business Activities (or a substantial portion thereof) within the Zone for a continuous period of three (3) months during the Term of this Agreement for any reason, except if such cessation is caused by a Force Majeure as defined in Article 8 or for a reason otherwise approved by the CITY, then the CITY shall have the right to terminate this Agreement. Said terminations shall be effective for the calendar year during which the Property was no longer used for the required purposes stated herein. Unless KOHL'S presents credible evidence to clearly indicate a date of cessation, CITY's determination of a date of cessation shall be final and conclusive.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY, and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies KOHL'S in writing of termination.

D. If KOHL'S, a Related Organization or City-approved assignee fails to hire and retain the minimum number of permanent full-time employees as required in Article 5, Paragraph A above, calculated by the averaging of the two most current semi-annual Employee Wage Information for Tax Phase-In Request Forms (Exhibit "C"), or substantially similar form, for such calendar year of noncompliance, then for each such calendar year of noncompliance, the tax abatement shall be reduced in the following tax



year by the same percentage as the deficiency in the number of employees. For example, if KOHL'S hires and retains ninety percent (90%) of the minimum number of full-time employees in a given year, KOHL'S shall be entitled to ninety percent (90%) of the ad valorem real and personal property tax abatement for the Property for that following year, subject to a floor of fifty percent (50%). Should KOHL'S fail to hire and retain at least fifty percent (50%) of the minimum number of full-time employees in a given year then, at the option of CITY, this failure may be grounds for termination of this Agreement. Said termination shall be effective for the calendar year during which the number of permanent full-time employees stated herein have not been hired or retained as required.

Upon termination, any and all taxes otherwise abated for that calendar year and all previously abated taxes under this Agreement shall be recaptured by CITY and CITY shall be entitled to the payment of such recaptured taxes within sixty (60) calendar days from the date it notifies KOHL'S in writing of such termination unless the termination is subject to a good faith dispute, in which case payment of the recaptured taxes may be delayed until the dispute is resolved.

E. During the Term, CITY may declare a default if KOHL'S fails to substantially comply with any of the material terms of this Agreement. Should CITY determine that KOHL'S is in default under any of the terms of this Agreement, CITY will notify KOHL'S in writing at the address below in Article 9. If said default is not cured within sixty (60) calendar days from the date of such notice (hereinafter the "Cure Period"), then CITY shall have the right to terminate this Agreement. CITY may, in its reasonable discretion, extend the Cure Period if KOHL'S commences the cure within the Cure Period and KOHL'S is diligently pursuing such cure. If the Agreement is terminated as a result of default, all taxes abated shall be due for the tax year during which the termination occurred and shall accrue without further abatements for all tax years thereafter; in addition, CITY shall have the right to recapture from KOHL'S all previously abated real and personal property taxes under this Agreement, and said taxes shall be paid by KOHL'S within sixty (60) calendar days of receiving CITY'S written notification of recapture, unless such termination is the subject of a good faith dispute, in which case payment of the recaptured taxes may be delayed until the dispute is resolved.

F. Other Remedies Available. CITY's right to termination of this Agreement and/or recapture of previously abated taxes shall be the CITY's sole and exclusive remedy in the event of a KOHL'S default. However, such termination and/or recapture shall be subject to any and all lawful offsets, settlements, deductions or credits to which KOHL'S may be entitled. The termination and/or recapture of taxes provided in this Article 7 are not applicable to situations involving minor changes to the description of the Property, or changes in ownership or in management thereof, so long as KOHL'S, its parent, subsidiary, affiliate or its CITY-approved successor or assignee continues conducting Business Activities or other authorized activities thereon as provided hereinabove.

G. Calculation of Taxes Subject to Recapture. If KOHL'S fails to comply with any of the material terms of this Agreement including, but not limited to, those pertaining to this Article 7, then, after the expiration of any applicable Cure Period, the City Council shall have the right to

recapture from KOHL'S a percentage of the abated real and personal property taxes, per applicable Phase to which that failure pertains, based on the following table:

TERM YEAR	TOTAL TAX PREVIOUSLY ABATED SHALL BE MULTIPLIED BY:
1-7	100%
8	75%
9	50%
10	25%

FORMULA: The recapture formula shall be:

$$\begin{array}{ccccc} & & \text{Applicable Percentage} & & \text{Amount to be} \\ & & & & \\ \text{Total Taxes Abated} & \times & & = & \\ & & \text{from above Schedule} & & \text{Recaptured} \end{array}$$

CITY shall recalculate the amount of recapture pertaining to each tax year utilizing the above formula. A bill for each year will then be sent to KOHL'S.

#### 8. **AUTHORIZED RELIEF FROM PERFORMANCE (Force Majeure)**

For purposes of this section, "Force Majeure" is defined as an act of God, a natural disaster or an act of war (including terrorism). It also includes explosion, fire or other casualty or accident which is not the result of gross negligence, an intentional act or misconduct on the part of KOHL'S. In addition to relief expressly granted in this Agreement, CITY may grant relief from performance of this Agreement if KOHL'S is prevented from compliance and performance by an event of Force Majeure. The burden of proof for the need for such relief shall rest upon KOHL'S. To obtain release based upon this Article 8, KOHL'S must file a written request with the CITY'S Economic Development Department for processing to City Council for a decision, authorized by a duly approved Ordinance.

#### 9. **NOTICE**

Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if: (a) delivered in person to the address set forth herein below for the party to whom the notice is given; (b) placed in the United States mail with postage prepaid, return receipt requested, properly addressed to such party at the address hereinafter specified; or (c) deposited, with fees prepaid, into the custody of a nationally recognized overnight delivery service such as FedEx, addressed to such party at the address hereinafter specified. Any notice mailed in the above manner shall be effective upon its deposit into the custody of the United States Postal Service or such nationally recognized delivery service as applicable; all other notices shall be effective upon receipt. From time to time, either party may designate another address for all purposes under this Agreement by giving the other party no less than ten (10) calendar days advance written notice of such change of address in accordance with the provisions hereof.

do not require City Council consent, as required under Article 5, Paragraph O. All future assignees shall be bound by all terms and/or provisions and representations of this Agreement.

## **12. GENERAL PROVISIONS**

A. None of the Personal Property Improvements described in this Agreement are financed by tax increment bonds.

B. This Agreement is entered into subject to the rights of the holders of outstanding bonds of the CITY related to this project. No bonds for which the CITY is liable have been used to finance this project.

C. No amendment, modification, or alteration of the terms hereof shall be binding unless in writing dated subsequent to the date of this Agreement and duly authorized by the parties. KOHL'S acknowledges that City Council approval is required for any and all of these actions.

D. KOHL'S understands and agrees that if KOHL'S is a "business" and if the City's contribution under this Agreement is a "public subsidy" as that term is defined in Chapter 2264 of Subtitle F, Title 10 of the Government Code (80 (R) HB 1196), then KOHL'S is required to refund money, pursuant to 80(R) HB 1196, KOHL'S has received from City through this Agreement, in the event of a conviction of knowingly employing an undocumented worker, with repayment required within six months of final conviction. Interest shall accrue at the rate of .5% per month until the time of such repayment from the date of final conviction.

## **13. SEVERABILITY**

In the event any section, subsection, paragraph, subparagraph, sentence, phrase or work herein is held invalid, illegal or unenforceable, the balance of this Agreement shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase or word. In such event there shall be substituted for such deleted provisions a provision as similar as possible in terms and in effect to such deleted provision that is valid, legal and enforceable. This Agreement constitutes the entire Agreement between the parties hereto relating to the subject matter contained herein and supersedes all prior, oral or written agreements, commitments or understandings with respect to the matters provided for herein.

## **14. ESTOPPEL CERTIFICATE**

Any party hereto may request an estoppel certificate related to this project (hereafter referred to as "Certificate") from another party hereto so long as the Certificate is requested in connection with a bona fide business purpose. The Certificate, which if requested, will be addressed to a subsequent purchaser or assignee of KOHL'S or other party designated by KOHL'S, which shall include, but not necessarily be limited to, statements that this Agreement is in full force and effect without default, if such is the case, the remaining Term of this Agreement, the levels of tax abatement in effect, and such other matters reasonably requested by the party(ies) to receive the Certificate.

TO KOHL'S:

- (Whether personally delivered or mailed):

Kohl's Department Stores  
N56 W17000 Ridgewood Drive  
Menomonee Falls, WI 53051  
Attn: Legal Department

TO CITY:

- If mailed:

International and Economic Development Department  
Attn: Director  
P.O. Box 839966  
San Antonio, Texas 78283-3966

- If by personal or overnight delivery:

International and Economic Development Department  
Attn: Director  
City Hall, 4th Floor  
Military Plaza  
San Antonio, Texas 78205

**10. CONDITION**

This Agreement is conditioned entirely upon the approval of the San Antonio City Council, as evidenced by duly approved Ordinance Number 2010-06-0010- 0500, dated June 10, 2010.

**11. ASSIGNMENT**

Except as otherwise expressly provided herein, this Agreement may be assigned or otherwise transferred only with City Council's prior approval (which approval shall not be unreasonably withheld), as reflected in a duly adopted ordinance. KOHL'S must submit a written request to CITY for approval of the proposed assignment or other transfer at least thirty (30) days prior to the effective date of the assignment or transfer of any part of this Agreement; however, no City Council consent is required for an assignment or transfer to a parent of KOHL'S, a subsidiary of KOHL'S, an affiliate entity of KOHL'S, or to any new entity created as a result of a merger, acquisition or other corporate restructure or reorganization of KOHL'S. However, KOHL'S shall give CITY prior written notice of all assignments or other transfers that

15. **OWNER STANDING**

KOHL'S, as a party to this Agreement, shall be deemed a proper and necessary party in any litigation questioning or challenging the validity of this Agreement or any of the underlying ordinances, resolutions, or City Council actions authorizing same, and KOHL'S shall be entitled to intervene in said litigation.

16. **APPLICABLE LAW**

This Agreement shall be construed under the laws of the State of Texas and is enforceable in any state or federal court of competent jurisdiction.

17. **TRIPPLICATE ORIGINALS**

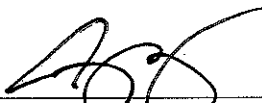
This Agreement shall be executed in three triplicate originals, with an original going to each party and one to the City Clerk of the City of San Antonio.

**WITNESS OUR HANDS, EFFECTIVE as of June 8, 2010:**

Accepted and executed in triplicate originals on behalf of the City of San Antonio pursuant to City Ordinance Number 2010-06-~~10~~~~10500~~ dated June 10, 2010, and KOHL'S pursuant to the authority of its \_\_\_\_\_.

**CITY OF SAN ANTONIO,**

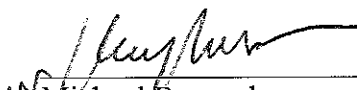
a Texas municipal corporation

  
Sheryl L. Sculley  
CITY MANAGER

ATTEST:

  
Leticia Vacek  
CITY CLERK

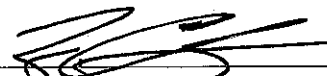
APPROVED AS TO FORM:

  
Michael Bernard  
CITY ATTORNEY




**KOHL'S DEPARTMENT  
STORES, INC.**

a Delaware corporation

  
By: Troy A. Carrothers  
Title: Senior Vice President

ATTEST:

  
Brian W. Zempel

## Methods

Document comparison done by DeltaView on Monday, June 07, 2010 3:02:17 PM

Input:	
Document 1	file://C:/Documents and Settings/carsonb/Desktop/Kohl's Tax Phase-In Draft 060710 F (2).DOC
Document 2	file://C:/Documents and Settings/carsonb/Desktop/Kohl's Tax Phase-In Draft (H&B comments).DOC
Rendering set	HB Standard

Legend:	
<b>Insertion</b>	
Deletion	
<del>[Moved from]</del>	
<u>[Moved to]</u>	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	12
Deletions	9
Moved from	0
Moved to	0
Style change	0
Format changed	0
Total changes	21

## EXHIBIT C: NUMBER OF JOBS AND WAGE INFORMATION FORM